



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0448]

RIN 1625-AA87

Security Zone; Potomac River, Montgomery County, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing regulations for a security zone for certain waters of the Potomac River to prevent waterside threats and incidents while persons protected by the United States Secret Service (USSS) are at the Trump National Golf Club at Potomac Falls, VA. This regulation prohibits vessels and people from entering the security zone unless specifically exempt under the provisions in this rule or granted specific permission from the COTP Maryland-National Capital Region or a designated representative. This regulation also governs activities of vessels and persons already in the security zone when it is activated.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2017-0448 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald L. Houck, at Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM	Broadcast Notice to Mariners
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
MD-DNR	Maryland Department of Natural Resources
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
USSS	United States Secret Service

II. Basis and Purpose, and Regulatory History

The United States Coast Guard is finalizing regulations for a security zone that encompasses certain waters of the Potomac River next to the Trump National Golf Club at Potomac Falls, VA. The Coast Guard published an interim rule, “Security Zone; Potomac River, Montgomery County, MD” on July 10, 2017 (82 FR 31719). In accordance with 5 U.S.C. 553(b)(B), the rule was made immediately effective.

Although immediately effective, the Coast Guard provided the public with a 30-day post-effective comment period. After reviewing the public input, the Coast Guard published a second interim rule, “Security Zone; Potomac River, Montgomery County, MD” on March 21, 2019 (84 FR 10420), which responded to comments received and made modifications to the rule. In accordance with 5 U.S.C. 553(b)(B), the March 2019 interim rule was made immediately effective, but the Coast Guard provided the public

with a 90-day post-effective comment period on the modified rule. During the comment period on the March 2019 interim rule, which ended June 19, 2019, we received six comments.

III. Legal Authority and Need for Rule

Under the Ports and Waterways Safety Act, the Coast Guard has authority to establish water or waterfront safety zones, or other measures, for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area, 46 U.S.C. 70011(b)(3). This rule safeguards the lives of persons protected by the Secret Service, and of the general public, by enhancing the safety and security of navigable waters of the United States during heightened security events at the Trump National Golf Club at Potomac Falls, Virginia. The Coast Guard will activate the security zone when requested by the USSS for the protection of USSS protectees when they are at the Trump National Golf Club. The USSS provides protection to individuals either pursuant to 18 U.S.C. 3056 or pursuant to a Presidential memorandum. The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034, as delegated by Department of Homeland Security Delegation no. 0170.1, section II, paragraph 70, from the Secretary of DHS to the Commandant of the U.S. Coast Guard, and further redelegated by 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5 to the Captains of the Port.

III. Discussion of Comments

As noted above, we received six submissions in response to our second interim rule, published March 21, 2019. The comments are available for public inspection at www.regulations.gov under docket USCG-2017-0448.

The comments raised a total of nine questions or concerns that we address below.

1. Can the Coast Guard clarify that transits that occur from Violette's Lock to Seneca Falls and the George Washington Canal do not occur within the security zone, and therefore, are not subject to the security zone requirements in the 2019 IFR?

Persons and vessels transiting from Violett's Lock to Seneca Falls and the George Washington Canal are outside the security zone and are not subject to the transit restrictions imposed by the security zone at any time, including when the security zone is being enforced. The March 2019 interim rule incorrectly indicated in a comment response that these waterway users would need to transit through the security zone. The regulatory text itself was correct; the error was in the preamble language.

2. Could the Coast Guard create a 50-yard restricted area on the Virginia side for slow-moving waterway traffic?

The Coast Guard established the security zone at the request of, and in coordination with, the USSS. The design of the security zone is needed to support security measures required during heightened security events at the Trump National Golf Club while USSS protectees are present. As discussed in the March 2019 rule, the Coast guard manages waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels. A corridor on the Virginia side would not allow this positive control of the area being protected.

3. The rule is burdensome to older, slower recreational paddlers, and may discourage them from using the waterway.

The COTP will provide sufficient notice of the security zone's activation and enforcement period for persons to schedule, coordinate and adjust their transit schedules. If paddlers are on the water within the zone when activated, the Coast Guard will allow these paddlers adequate time to proceed safely out of the zone at a reasonable rate of speed. But, no paddlers will be allowed to loiter within the zone.

4. Can the transit zone be located outside of the security zone?

The Coast Guard, with USSS, has determined that given the width of the waterway at this location, the width of the security zone, from shore to shore, is required at the request of the USSS. When the security zone is activated, a transit lane will be provided along the Maryland shoreline that will allow river traffic to transit after permission is granted by the COTP Maryland-National Capital Region or a designated representative in consultation with the USSS.

5. What does getting permission from the COTP entail?

Persons and vessel operators intending to enter or transit the security zone (including the transit lane) while the zone is being enforced must obtain authorization from the COTP or designated representative. To obtain authorization, persons and vessel operators must contact the COTP or designated representative by phone at 410-576-2675, on marine band radio VHF-FM channel 16 (156.8 MHz), or by visually or verbally hailing the on-scene law enforcement vessel enforcing the zone. Access to the security zone during enforcement will be determined by the COTP or designated representative on a case-by-case basis. The Coast Guard does not issue authorizations to enter the zone in the form of permits. The Coast Guard does not provide authorization to enter the security zone in advance.

6. Will the Government continue to consider how this particular security zone (and future zones) impact the First Amendment rights of citizens?

As stated in our March 2019 interim final rule, the Coast Guard agrees that First Amendment considerations must be evaluated during the rulemaking process for actions taken by the Coast Guard. The Coast Guard believes that this zone is narrowly tailored and minimizes intrusion into the rights of protestors while providing necessary security measures for persons protected by the USSS. As stated in the “Protest Activities” section of the Regulatory Analysis portion of both the July 2017 interim final rule, the March 2019 interim final rule, and this current action, the Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels. The Coast Guard’s authority is limited to actions within our jurisdiction.

7. Enforcement personnel should be appropriately and continuously trained on the security zone’s boundaries and regulations.

To ensure proper application of the regulation, the Coast Guard holds pre-mission briefings prior to each activation of the zone that discuss the regulation, including visual landmarks demarcating the zone’s boundaries that personnel should use when enforcing the zone. In addition to the pre-mission briefing, enforcement personnel are provided a written informational bulletin prior to each activation. The Coast Guard will continue to

coordinate enforcement efforts with the other government agencies assisting with enforcement.

8. Notice should be posted on federal land at Violette's Lock, Riley's Lock and at Algonkian Park when the security zone is in effect, with the estimated time that security zone enforcement will end, and a reminder of the phone number to which the public can call to check the enforcement status.

As stated in the March 2019 interim rule, for security and logistical reasons the Coast Guard can only provide minimal advance notice of activation. The COTP Maryland-National Capital Region will notify waterway users and the boating community of activation of the security zone via Broadcast Notice to Mariners (BNM), an information release at the website: www.news.uscg.mil/Baltimore/ and by a recorded message at telephone number (410) 576-2675. As the commenter stated in their comment, during recent activations of the security zone, law enforcement personnel have been assigned to the boat ramp at Riley's Lock to inform members of the public that the security zone is in effect. But, it is not feasible to have law enforcement officials present at all launch sites each time the security zone is activated.

9. Will there be additional regulations put into place by Government agencies that further restrict the public's use of land or water in an effort to support the vacation and recreation activities of high-level government officials.

The Coast Guard's authority is limited to actions within our jurisdiction. The USSS is tasked with providing the highest level of security for certain individuals, and has requested the Coast Guard's assistance in this location. The need for and level of security does not change based on the activities of protected individuals. In the March

2019 interim rule, and affirmed in this final rule, the Coast Guard shortened the size of the security zone and added the transit lane along the Maryland shore to provide an opportunity for the public to enjoy the river while persons protected by the USSS participate safely in their chosen activities.

IV. Discussion of the Rule

The Coast Guard is adopting the text of the rule from the March 2019 IR with one change. The Coast Guard is amending the text of the rule to reflect that the USSS provides protection to individuals pursuant to a Presidential memorandum in addition to those persons listed at 18 U.S.C. 3056. This rule affirms the security zone to include all navigable waters of the Potomac River, from shoreline to shoreline, within an area bounded on the west by a line connecting the following points: latitude 39°03'44.7" N, longitude 077°21'47" W, thence north to latitude 39°04'03" N, longitude 077°21'47" W, and bounded on the east by a line connecting the following points: latitude 39°04'04" N, longitude 077°19'58" W, thence south to latitude 39°03'41.35" N, longitude 077°20'05.30" W. This rule provides an area within the security zone along the Maryland shoreline, designated the "Transit lane," including a definition and the restrictions that apply within the lane to waterway users. However, permission for waterways users to operate within this lane will be determined by the COTP, or designated representative. The public can learn the status of the security zone via an information release for the public via website www.news.uscg.mil/Baltimore/ and a recorded message at telephone number (410) 576-2675.

Entry into the security zone is prohibited while the zone is in force, unless public use of the transit lane is specifically authorized by the COTP Maryland-National Capital

Region or a designated representative. Except for public vessels, this rule will require all vessels in the designated security zone to immediately depart the security zone. Federal, State, and local agencies may assist the Coast Guard in the enforcement of this rule. The duration of the zone is intended to ensure the security of persons protected by the USSS while at Trump National Golf Club. The COTP Maryland-National Capital Region will notify waterway users and the boating community of the security zone, via BNM, an information release at the website: www.news.uscg.mil/Baltimore/ and a recorded message at telephone number (410) 576-2675.

V. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and Executive orders related to rulemaking. The Coast Guard summarizes its analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563¹ direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771² directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

¹ <https://www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review>

² <https://www.federalregister.gov/documents/2017/02/03/2017-02451/reducing-regulation-and-controlling-regulatory-costs>

This regulatory action determination is based on the following reasons: (1) the public may move through the area along the Maryland shoreline using the dedicated transit lane during the enforcement of the security zone with permission from the COTP or COTP's designated representative, (2) the security zone will be enforced only as required by the USSS and for only the period of time necessary, and (3) the COTP Maryland-National Capital Region will notify waterway users and the boating community of the security zone via BNM, an information release at the website: www.news.uscg.mil/Baltimore/ and a recorded message at telephone number (410) 576–2675.

A regulatory evaluation and Regulatory Flexibility Analysis follows and provides an evaluation of the economic impacts associated with this rule. In this final rule, the Coast Guard affirms the revisions to the security zone which were made in the 2019 interim rule. This final rule also affirms the geographic boundaries for the security zone which were published in the interim final rule of March 21, 2019. These boundaries reflect changes from the boundaries in the interim final rule of July 10, 2017. The following table provides a summary of the rule's costs and qualitative benefits.

Table 1: Summary of the Rule's Impacts

Category	Summary
Potentially Affected Population	Operators of summer camps; operators of kayak and watercraft instruction schools; recreational boaters including kayakers, water ski users, stand up paddle boarders (SUPs); fishermen; waterfowl hunters; nonprofit organizations; exercisers, owners of residences near the area, political protesters as well as federal agencies such as the Coast Guard and the USSS. The rule also may indirectly impact some federal agencies. State ³ and local law enforcement and recreational/park authorities in the area may have interests.

³ The Potomac River falls in the State of Maryland. Maryland law enforcement personnel and vessels (<http://dnr.maryland.gov/nrp/Pages/default.aspx>) of the Maryland Natural Resources Police (MNRP) have participated in past security zone enforcements. A CG officer will deploy on a MNRP boat during an enforcement.

Costs	Does not impose additional direct costs on the public or to the Coast Guard.
Unquantified Benefits	* Reinforces an established Security Zone. * Helps secure area to meet objectives of the USSS.

Affected Population

The Coast Guard does not collect data on the vessels and individuals that use this area of the Potomac River. Based on comments to the Coast Guard's original interim final rule (dated July 10, 2017), the Coast Guard estimates that this rule affects recreational boaters including kayakers, personal water craft (PWCs) operators,⁴ and stand up paddle boarders (SUPs); persons using the area for exercise activities; fishermen; commercial vessel operators; and political protesters. This final rule impacts the Coast Guard and the U.S. Secret Service (USSS) directly. No governmental jurisdictions at the State, Tribal or municipal level will be impacted directly by this final rule.

Exact numbers are not available, but the Coast Guard estimates the total size of the population affected by this final rule to be in the hundreds. The Coast Guard attempted to collect further data by using the U.S. Geological Survey's satellite technology. The technology was not detailed enough to do a count of individuals such as swimmers or inner tube users. Likewise, the technology was not precise enough to tally vessels as small as a kayak or SUP. The comments suggested the number these vessels ranged from "a dozen" to "thousands." The most often cited of these estimates was "hundreds." We received no comments on affected population in response to the March 21, 2019, interim final rule.

The Coast Guard also sought an estimate from its personnel who manage enforcement of the security zone. The Coast Guard does not normally collect data on the

⁴ Predominately this includes jet ski users.

number of vessels and individuals that use this area. Onsite personnel estimated up to six recreational vessels and up to 25 kayakers transiting during the typical enforcement of the security zone.

Costs

This final rule affirms the existing security zone established by the March 2019 interim rule (84 FR 10420, March 21, 2019). The security zone covers waters of the Potomac River next to Trump National Golf Club at Potomac Falls, VA, and prevents waterside threats and incidents while persons protected by the USSS are at the club. It continues to prohibit vessels and people from entering the security zone unless specifically exempt under the provisions in this rule or granted specific permission from the COTP Maryland-National Capital Region or designated representative. This final rule also governs activities of vessels and persons already in the security zone when activated. This rule will not require any entity to take action beyond what was already required under the 2019 interim final rule. As a result, this final rule does not impose additional direct costs on the public or to the Coast Guard. A description of the rule's provisions follows.

Section 165.557(a) establishes the definitions. These definitions do not add direct cost to the public or Government. The definition of "vessel" establishes the applicability of these regulations to a multitude of watercraft including but not limited to kayaks, stand up paddleboards (SUPs) and inner tubes. Therefore, the rule will apply to users of these types of vessels.

Section 165.557(b) describes where the security zone is located. Actions that are necessitated when a security zone is declared are specified in existing regulations. Under

33 CFR 165.7(a), when the establishment of these limited access areas occurs, notification may be made by marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, and on-scene oral notice, as well as publication in the Federal Register. Entering or remaining in the security zone is prohibited unless authorized by the COTP or a designated representative in consultation with the USSS when the security zone is being enforced. Section 165.557(d) requires that the COTP provide notice of enforcement of the security zone by Broadcast Notice to Mariners, information release at the website, and pre-recorded message at telephone number, as well as on-scene notice.

The Coast Guard received a comment during the March 21, 2019, interim final rule's comment period on training. A commenter⁵ requested USCG conduct training for personnel. The Coast Guard conducts pre-mission briefings prior to each activation of the zone. In addition to the pre-mission briefing, enforcement personnel are provided a written informational bulletin prior to each activation.⁶ The pre-mission briefings are conducted by a Coast Guard officer (O-3) and are attended by Coast Guard personnel ranking from E-4 to O-3, and may also be attended voluntarily by local law enforcement and USSS personnel. This pre-mission briefing may occur as part of other briefing tasks.

The final rule may result in indirect costs to the public in the form of opportunity costs for lost leisure time to access to the restricted area of the Potomac River. Onsite Coast Guard personnel have reported that no queue of recreational or commercial vessels

⁵ <https://www.regulations.gov/document?D=USCG-2017-0448-0645>

⁶ This paperwork task is exempt from the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) because the material is produced by Federal personnel and distributed to Federal personnel.

has occurred with previous enactments of the security zone. For this reason, the Coast Guard has not computed a cost of the final rule for this issue.

With regard to the other effects of the final rule's provisions, the final rule does result in actions being taken by the Coast Guard and USSS directly, but it does not result in any new costs or burdens. The impact that this final rule will have on these two Federal agencies is considered part of their mission and responsibility, and thus part of their current responsibilities to the public and other Federal entities.

Benefits

This security zone is necessary to prevent waterside threats and incidents for events held at Trump National Golf Clubhouse when persons protected by the USSS are at the club.

No comments on the benefits of the rulemaking were received in response to the March 21, 2019, interim final rule.

Regulatory Alternatives Considered

The Coast Guard considered whether any alternative could accomplish the stated objectives and minimize any significant economic impact on small entities. In developing this final rule, the Coast Guard considered the following alternatives:

(1) Issue a rule that would not require any vessel to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

(2) Issue a rule that would not require human-powered vessels to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

(3) Return boundaries to the July 10, 2017, interim final rule.

Alternative 1: Issue a rule that would not require any vessel to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

The Coast Guard considered issuing a rulemaking that did not require any vessel to obtain permission from the COTP or the designated representative prior to entering the transit lane. But, the Coast Guard rejected this option because this approach would undermine the security measures this rule intends to provide. This option would have allowed persons with harmful intent immediate access to the Trump National Golf Club shoreline while USSS protectees were present. Instead, the Coast Guard chose to continue to allow vessels to use the transit lane as conditions permit and with approval from the COTP or designated representative. This helps the Coast Guard manage waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels.

Alternative 2: Issue a rule that would not require human-powered vessels to get permission from the Coast Guard prior to entering the transit lane, with or without changes to the zone's boundaries described in the July 10, 2017, interim final rule.

The Coast Guard considered amending the security zone to require only powered vessels to get permission from the COTP or the designated representative prior to entering the transit lane. Under this option, human-powered vessels such as kayaks, canoes, and paddleboards would not need permission from the COTP or designated representative before entering the transit lane. We rejected this option because this approach would have undermined the security measures this final rule intends to provide.

An exemption for paddle craft would allow persons with harmful intent immediate access to the Trump National Golf Club shoreline while USSS protectees were present. Instead, the Coast Guard will continue maintaining a shoreline-to-shoreline security zone activated when USSS protectees are present and will continue to allow vessels to use the transit lane as conditions permit. This helps the Coast Guard manage waterborne security risk by maintaining positive control of entry into the zone and keeping a minimum stand-off distance from the Virginia shoreline for all vessels.

Alternative 3: Return boundaries to the July 10, 2017, interim final rule.

The Coast Guard considered issuing a rule which would have used the boundaries as promulgated in the interim final rule of July 10, 2017. The boundaries of the 2017 interim final rule are wider than the boundaries of the 2019 interim final rule and this final rule. This alternative would have excluded a provision which was favored by the public⁷ and is part of the preferred alternative (i.e., the 2019 IFR and this final rule). The alternative would have restricted a larger area of the river and would have had a greater impact on the public. This alternative would not provide any increased security over the preferred alternative adopted in this final rule. For these reasons, the Coast Guard chose to adopt the less restrictive 2019 interim final rule.

The preferred alternative (this final rule) affirms the establishment of a security zone with a transit lane to accommodate the public, in the same configuration that was established by the 2019 interim rule. This final rule also affirms the communication methods the Coast Guard will use to inform the public about the rule's enforcement.

⁷ Commenters (USCG-2017-0448-0059, USCG-2017-0448-0038, USCG-2017-0448-0008, USCG-2017-0448-0067, USCG-2017-0448-0050, USCG-2017-0448-0144, USCG-2017-0448-0099, USCG-2017-0448-0104, USCG-2017-0448-0172, USCG-2017-0448-0183) supported a transit lane; albeit it may have not been referred to as such in their comments.

B. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

As described in the “Regulatory Planning and Review” section, the Coast Guard expects this final rule to result no direct costs to any entities, including small entities. There are potential indirect costs for some entities. The affected population for the indirect costs consists of private individuals who own recreational vessels or who engage in recreational activities in this area of the Potomac River, commercial entities and nonprofits which have activities or operate vessels in this area of the Potomac and governmental entities.

Although some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in Section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. No governmental jurisdictions at the State, Tribal or municipal level will be impacted directly by this final rule. Thus, the compliance with this final rule does not represent a significant economic impact on small entities.

The Coast Guard received no comments on its small entities analysis in the March 21, 2019, interim final rule.

The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Tribal governments, on the relationship between the Federal Government and Tribal governments, or on the distribution of power and responsibilities between the Federal Government and Tribal governments. If you believe this rule has implications for federalism or Tribal relationships, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

The Coast Guard has analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone that prohibits entry on specified waters of the Potomac River during frequently occurring heightened security events. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons stated in the preamble, the Coast Guard amends 33 U.S.C. part 165 as follows:

PART 165 -- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.557 to read as follows:

§ 165.557 Security Zone; Potomac River, Montgomery County, MD.

(a) *Definitions.* As used in this section:

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his or her behalf.

Designated representative means a Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to enforce the security zone described in paragraph (b)(1) of this section.

Public vessel has the same meaning as that term is defined under 46 U.S.C. 2101.

(b) *Location.* Coordinates used in this section are based on datum NAD 83.

(1) *Security zone.* The following area is a security zone: all navigable waters of the Potomac River, from shoreline to shoreline, within an area bounded on the west by a line connecting the following points: latitude 39°03'44.7" N, longitude 077°21'47" W, thence north to latitude 39°04'03" N, longitude 077°21'47" W, and bounded on the east

by a line connecting the following points: latitude 39°04'04" N, longitude 077°19'58" W, thence south to latitude 39°03'41.35" N, longitude 077°20'05.30" W.

(2) *Transit lane.* All waters within the Potomac River, contiguous with the Maryland shoreline and extending out into the Potomac River approximately 250 yards, within an area bounded by a line connecting the following points: beginning at the Maryland shoreline at latitude 39°04'03" N, longitude 077°21'47" W, thence south to latitude 39°03'55.3" N, longitude 077°21'47" W, thence east to latitude 39°03'56.8" N, longitude 077°20'00.3" W, thence north to the Maryland shoreline at latitude 39°04'04" N, longitude 077°19'58" W, thence back along the shoreline to the originating point.

(c) *Regulations.* The general security zone regulations found in §165.33 apply to the security zone created by this section.

(1) Except for public vessels, entry into or remaining in the security zone described in paragraph (b)(1) of this section is prohibited unless authorized by the COTP or designated representative when the aforementioned security zone is being enforced. At the start of each enforcement, all persons and vessels within the security zone must depart the zone immediately or obtain authorization from the COTP or designated representative to remain within the zone. All vessels authorized to remain in the zone shall proceed as directed by the COTP or designated representative.

(2) Persons and vessel operators who intend to enter or transit the security zone while the zone is being enforced must obtain authorization from the COTP or designated representative. Access to the zone will be determined by the COTP or designated representative on a case-by-case basis when the zone is enforced. Persons and vessel operators requesting permission to enter or transit the security zone may contact the

COTP or designated representative at telephone number 410-576-2675, on marine band radio VHF-FM channel 16 (156.8 MHz), or by visually or verbally hailing the on-scene law enforcement vessel enforcing the zone. On-scene Coast Guard personnel enforcing this section can be contacted on marine band radio, VHF-FM channel 16 (156.8 MHz). The operator of a vessel shall proceed as directed upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local law enforcement agency vessel, by siren, radio, flashing light, or other means. When authorized by the COTP or designated representative to enter the security zone all persons and vessels must comply with the instructions of the COTP or designated representative and proceed at the minimum speed necessary to maintain a safe course while within the security zone.

(3) The transit lane, described in paragraph (b)(2) of this section, is the only part of the security zone through which persons and vessels may travel. Before entering the transit lane, persons or vessels must have authorization as described in paragraph (c)(2) of this section. All persons and vessels shall operate at bare steerage or no-wake speed while transiting through the lane, and must not loiter, stop, or anchor, unless authorized or otherwise instructed by the COTP or a designated representative.

(4) The U.S. Coast Guard may secure the entire security zone, including transit lane, if deemed necessary to address security threats or concerns.

(5) The U.S. Coast Guard may be assisted by Federal, State, and local law enforcement agencies in the patrol and enforcement of the security zone described in paragraph (b)(1) of this section.

(d) *Enforcement.* The Coast Guard activates the security zone when requested by the U.S. Secret Service for the protection of individuals who qualify for protection under

18 U.S.C 3056(a) or Presidential memorandum. The COTP will provide the public with notice of enforcement of security zone by Broadcast Notice to Mariners (BNM), information release at the website: www.news.uscg.mil/Baltimore/ and via a recorded message at telephone number (410) 576-2675 as well as on-scene notice by designated representative or other appropriate means in accordance with § 165.7.

Dated: April 27, 2020.

Joseph B. Loring,
Captain, U.S. Coast Guard,
Captain of the Port Maryland-National Capital Region.
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